

Assembly Bill No. 2873

CHAPTER 230

An act to amend Section 5100 of, and to add Article 5.5 (commencing with Section 5097) to Chapter 1 of Division 3 of, the Business and Professions Code, relating to accountancy.

[Approved by Governor August 23, 2002. Filed with Secretary of State August 26, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2873, Frommer. Accounting.

Existing law establishes the California Board of Accountancy, in the Department of Consumer Affairs, for the purpose of licensing and regulating public accountants. In addition to other requirements, a licensee is required to issue a report conforming to professional standards upon completion of a compilation, review, or audit of financial statements.

This bill would require audit documentation, as defined, to contain sufficient documentation to enable a reviewer with relevant knowledge and experience, but having no previous connection with an auditing engagement, to understand the nature, timing, extent, and results of auditing or other procedures performed, evidence obtained, conclusions reached, and the identity of the persons who performed and reviewed the work. The bill would create a presumption where the requirements are not met, which may be rebutted by a preponderance of the evidence, that the procedures were not applied, tests were not performed, information was not obtained, and relevant conclusions were not reached with regard to the portions of the audit not documented as required.

This bill would require audit documentation to be maintained for the longer of a 7-year period or a period sufficient to satisfy professional standards and comply with applicable laws and regulations. The bill would also require licensees to maintain a written audit documentation retention and destruction policy that sets forth the licensees' practices and procedures.

This bill would authorize the board to adopt certain regulations regarding audit documentation retention, including regulations establishing a different retention period for specific categories of audit documentation where warranted.

Existing law authorizes the board to revoke, suspend, or refuse to renew any permit or certificate, or to censure the holder of that permit or certificate, for unprofessional conduct.

The bill would make a violation of the audit documentation requirements unprofessional conduct subject to disciplinary action by the board.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that it is necessary to enact legislation to provide consumer protection and audit integrity in the field of accountancy.

SEC. 2. Article 5.5 (commencing with Section 5097) is added to Chapter 1 of Division 3 of the Business and Professions Code, to read:

Article 5.5. Audit Documentation

5097. (a) Audit documentation shall be a licensee's records of the procedures applied, the tests performed, the information obtained, and the pertinent conclusions reached in an audit engagement. Audit documentation shall include, but is not limited to, programs, analyses, memoranda, letters of confirmation and representation, copies or abstracts of company documents, and schedules or commentaries prepared or obtained by the licensee.

(b) Audit documentation shall contain sufficient documentation to enable a reviewer with relevant knowledge and experience, having no previous connection with the audit engagement, to understand the nature, timing, extent, and results of the auditing or other procedures performed, evidence obtained, and conclusions reached, and to determine the identity of the persons who performed and reviewed the work.

(c) Failure of the audit documentation to document the procedures applied, tests performed, evidence obtained, and relevant conclusions reached in an engagement shall raise a presumption that the procedures were not applied, tests were not performed, information was not obtained, and relevant conclusions were not reached. This presumption shall be a rebuttable presumption affecting the burden of proof relative to those portions of the audit that are not documented as required in subdivision (b). The burden may be met by a preponderance of the evidence.

(d) Audit documentation shall be maintained by a licensee for the longer of the following:

- (1) The minimum period of retention provided in subdivision (e).
- (2) A period sufficient to satisfy professional standards and to comply with applicable laws and regulations.



(e) Audit documentation shall be maintained for a minimum of seven years which shall be extended during the pendency of any board investigation, disciplinary action, or legal action involving the licensee or the licensee's firm. The board may adopt regulations to establish a different retention period for specific categories of audit documentation where the board finds that the nature of the documentation warrants it.

(f) Licensees shall maintain a written documentation retention and destruction policy that shall set forth the licensee's practices and procedures complying with this article.

5098. The board may adopt regulations to implement, interpret, and make specific provisions relating to the following:

(a) Requirements for licensees maintaining an audit documentation retention policy and procedures for review and approval of audit documentation destruction.

(b) Procedures for the identification, dating, and retention of audit documentation.

SEC. 4. Section 5100 of the Business and Professions Code is amended to read:

5100. After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

(b) A violation of Section 478, 498, or 499 dealing with false statements or omissions in the application for a license, in obtaining a certificate as a certified public accountant, in obtaining registration under this chapter, or in obtaining a permit to practice public accountancy under this chapter.

(c) Dishonesty, fraud, or gross negligence in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

(d) Cancellation, revocation, or suspension of a certificate or other authority to practice as a certified public accountant or a public accountant, refusal to renew the certificate or other authority to practice as a certified public accountant or a public accountant, or any other discipline by any other state or foreign country.

(e) Violation of Section 5097.

(f) Violation of Section 5120.



(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

(h) Suspension or revocation of the right to practice before any governmental body or agency.

(i) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

(j) Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

(k) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

